

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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In re : Chapter 11  
 :  
W.R. GRACE & CO., :  
et al., : Case No. 01-01139 (JKF)  
 :  
Debtors. :  
 : Hearing Date: 2/28/05 @ 12:00 p.m.  
 : Response Date: 2/11/05  
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**RESPONSE BY THE TENNESSEE DEPARTMENT OF REVENUE  
TO DEBTORS' 8th OMNIBUS OBJECTION TO CLAIMS**

COMES NOW the Office of the Tennessee Attorney General, through undersigned counsel, on behalf of the Tennessee Department of Revenue (TDOR), to respond to the Debtors' 8th Omnibus Objection to Claims.

IN SUPPORT THEREOF, it will be shown as follows:

1. The TDOR filed a proof of claim in the amount of \$2,066.55 claim number 15452 a copy of this claim is on file with this honorable Court.
2. Debtors' objects to the claim on the grounds that the claim is based on estimated taxes. According to TDOR records the debtors have not filed returns for the periods in question.
3. When a debtor fails to file returns, the Commissioner of Revenue is authorized to generate an estimated assessment for tax liability. T.C.A. §§ 67-1-716, 67-7-102; see also 11 U.S.C. §502(c). Except upon filing a true and accurate return, the taxpayer is estopped from disputing the accuracy of the Commissioner's assessment. T.C.A. 67-4-716(b).
3. A properly filed proof of claim constitutes prima facie evidence of the validity and amount of the claim. FED. R. BANKR. P. 3001(f). The burden then shifts to the objecting party

to go forward with additional evidence to rebut the presumption in favor of the creditor by a preponderance of the evidence. The Debtors have failed to produce any evidence to rebut the TDOR's prima facie case.

4. If the Debtors believe that returns have been filed for the tax periods in question, the undersigned attorney should be provided with a copy of each such return and if payment accompanied the return, a copy of the document showing that payment of the amount due was made i.e. check, wire transfer, voucher etc.

**WHEREFORE**, the TDOR requests an Order of this Court:

1. Overruling Debtors' objection to claim number 15452.
2. Granting such other relief as the Court deems appropriate to protect the interests of the Tennessee Department of Revenue.

Dated this 9th day of February, 2005.

Respectfully submitted,  
PAUL G. SUMMERS  
Attorney General & Reporter

By: /S/ William F. McCormick  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Response filed by the Tennessee Attorney General's Office was duly served by depositing same in the United States, first class mail, with proper postage affixed, addressed to the persons listed below on this the 9th day of February, 2005.

/s/ William F. McCormick  
William F. McCormick

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